IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl.Revn. NO.1602 of 2003
DATE OF DECISION: March 04, 2010

Salamudin

...PETITIONER

VS.

Food Inspector and another

...RESPONDENTS

CORAM: **HON'BLE MR. JUSTICE MOHINDER PAL**

PRESENT: Mr.Satish Chaudhary, Advocate
for the petitioner.

Mr.Munish Deswal, DeputyAdvocate General,
Haryana for the respondent-State.

MOHINDER PAL, J.

This revision petition has been filed by petitioner Salamudin against the judgment dated 15.07.2003 passed by the Additional Sessions Judge, Yamuna Nagar at Jagadhri whereby appeal against the judgment of conviction and sentence order dated 16.03.2001 passed by the Additional Chief Judicial Magistrate, Jagadhri convicting the petitioner under Section 16(1)(a)(i) read with Section 7 of the Prevention of Food Adulteration Act, 1954 (for short 'the Act) and sentencing him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1,000/-, in default whereof to undergo further simple imprisonment for a

period of two months, was dismissed.

The facts of the prosecution case, in brief, are that on 15.10.1989 Sh. Chunni Lal, Government Food Inspector Chhachhrauli, intercepted petitioner at Singhapura turning Chhachhrauli, who was having in his possession 60 liters of cow's milk in three drums, which was meant for public sale. The Government Food Inspector disclosed his identity to the accused-petitioner and purchased 750 mls. of cow's milk for analysis against Rs.3.00, which ultimately was found adulterated vide report (Ex.PE) by the Public Analyst. Ultimately, the complaint was filed against the petitioner in the Court.

On the basis of pre-charge evidence adduced by the complainant, the accused was charged under Section 16(1)(a)(i) read with Section 7 of the Act. He did not plead guilty to the charge and claimed trial.

In support of its case, the prosecution examined Government Food Inspector, Chuni Lal PW-1, Dr.V.K.Wadhawan PW-2, Dr.Gyanendra Sharma PW-3 and Mam Chand PW4. PW Lal Chand was given up by the complainant being won over by the accused.

In his statement recorded under Section 313 of the Code of Criminal Procedure, petitioner Salamudin denied the prosecution evidence and pleaded innocence. No evidence was led by the petitioner in defence.

I have heard the learned counsel for the parties and have gone through the records of the case.

Sample of cow's milk taken by the Government Food Inspector from accused-Salamudin, who was found in possession of 60 litres of milk, was found adulterated by the Public Analyst. Report of the Public

Analyst showed that the milk fat in the sample was 4.0% and 'milk solid not fat' was 7.5% and, thus, there was deficiency with regard to milk fat in the sample by 12% of the minimum prescribed standards. The prosecution case has been supported by the evidence of Chuni Lal, the Government Food Inspector (P.W.1), Dr.V.K.Wadhawan (P.W.2) and Dr.Gyanendra Sharma (P.W.3). The sample was taken by the Government Food Inspector Chuni Pal (P.W.1) in the presence of Dr.Gyanendra Sharma (P.W.3). The prosecution witnesses had no enmity with the accused to falsely implicate him in this case. The evidence produced by the prosecution proved on record that the sample of cow's milk, meant for public sale, was seized from the accused, which was sent to the Public Analyst, Haryana, Chandigarh for analysis, who vide report Ex.PE found the same adulterated, as mentioned above. The petitioner-accused, thus, incurred the liability of offence punishable under Section 16(1)(a)(i) read with Section 7 of the Act. In fact, learned counsel for the petitioner could not seriously challenge the prosecution case during the course of argument, which stands proved on record.

As such, conviction of petitioner Salamudin under Section 16(1)(a)(i) read with Section 7 of the Act, as recorded by both the Courts below, is maintained. However, keeping in view the facts and circumstances of the case particularly the fact that Sword of Damocles has remained hanging over the head of petitioner-accused Salamudin for the last more than twenty years as the case relates to 15.10.1989 and the petitioner has faced incarceration for 19 days, I am of the considered opinion that ends of justice will be adequately met if the sentence awarded to the petitioner is reduced to the period already undergone by him and sentence of fine is

enhanced to Rs.5000/-. I order accordingly by modifying the sentence order. The petitioner will deposit the amount of fine in the trial Court within a period of two months from the date of receipt of a certified copy of this order. Needless to say, if the petitioner fails to comply with the direction of depositing the amount of fine of Rs.5,000/- in the trial Court within the period stipulated above, the sentence of rigorous imprisonment as awarded by both the Courts below shall remain unaltered.

With the above conditional modification in the sentence order, this petition is dismissed.

March 04, 2010 **(MOHINDER PAL)**
jt **JUDGE**